



## **Employees Group Insurance Division**

*Office of Management and  
Enterprise Services*

# **STANDARDS OF CONDUCT**

**Effective March 1, 2013**

## STANDARDS OF CONDUCT

The State of Oklahoma's Office of Management and Enterprise Services Employees Group Insurance Division (EGID) is committed to:

1. conducting its business in accordance with the highest standards of ethical conduct;
2. conducting its business activities with integrity and in full compliance with federal, state and local laws governing its business; and
3. complying with all federal and state regulatory requirements related to the Medicare programs, including but not limited to the Anti-Kickback Statutes and False Claims Act and the detection, correction and prevention of FWA.

This commitment applies to relationships with its members, enrollees, federal, state and local governments, vendors, competitors, auditors and all public and government bodies. Most importantly, it applies to all Covered Persons.

The intent of this document is to ensure that every Covered Person acknowledges the proper standards of conduct and conforms his or her conduct to all applicable laws, regulations and policies. EGID is committed to continually monitoring and updating its Compliance Program to incorporate any modifications to applicable standards. These laws and other standards include, but are not limited to, the following relevant concepts set out under the cited statutes, rules and agency policies.

**Ethical Conduct (74 O. S. § 1305(5), OMES Human Resources Department Policy on Code of Ethics issued 9/1/12 and EGID Policy Directive 504)** During working and non-working hours, all agency personnel will ensure that their actions, activities and conduct are in accordance with the ethical requirements of all laws, rules, regulations, and policies applicable to the agency which governs the ethical conduct of agency employees. No agency employee shall solicit, agree to accept, or accept any bribe, gratuity, favor, or anything of value given, offered, or promised for the purpose of influencing their official act, decision, or judgment; or that may have the appearance of such actions.

No personal business is to be conducted by any employee during working hours or at any other time in Agency offices. State telephones, vehicles, calculators, computers, word processors, copiers, supplies, office space or any other equipment or facilities provided by the State for the business of the Agency shall not be used for personal business by Covered Persons, relatives, friends or associates.

**Confidentiality and Security of Information under HIPAA and HITECH (24 O.S. § 161, 74 O.S. § 1322, OMES Human Resources Department Policy on Designation of OMES as a Hybrid Entity under HIPAA issued 7/19/12 and EGID Policy Directive 102)** Oklahoma Statutes, EGID Rules, HIPAA Regulations, and individual confidentiality agreements with EGID

mandate that each employee, business associate, contractor, intern, or anyone with access to employee or member confidential information protect the privacy and confidentiality of that information and not release that information without written consent, subpoena or court order. Covered Persons must report disclosures of confidential information immediately to employees' supervisors (if applicable) and EGID's Compliance Officer. EGID's Compliance Officer will determine what additional action should be taken.

**Equal Employment Opportunity and Affirmative Action (OMES Human Resources Department Policy on EEO and Non-Discrimination issued 9/1/12 and EGID Policy Directive 004)** EGID's policy is to continuously provide equal employment and advancement opportunities in all job classifications without regard to political opinion or affiliation, race creed, gender, age, color, national origin, or physical handicap, so long as the physical handicap does not render the person unable to perform the essential functions of the job, with or without an accommodation, for which he/she is employed.

**Drug/Alcohol Free Workplace (OMES Human Resources Department Policy on Drug Free Workplace issued 9/1/12 and EGID Policy Directive 502)** All EGID employees are prohibited from unlawfully manufacturing, distributing, dispensing, processing, and/or using drug/alcohol controlled substances in or on all state government facilities, property or workplaces, or while conducting business for EGID.

**Sexual Harassment (OMES Human Resources Department Policy on Anti-Harassment issued 9/1/12 and EGID Policy Directive 507).** Sexual harassment is discrimination on the basis of gender (sex). It includes, but is not limited to, unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature. No officer or employee of any agency shall permit or engage in sexual harassment. EGID has a zero tolerance standard for sexual harassment in the work place. This includes agency employees, TPAs, vendors, or other consultants and outside contractors.

**Workplace Violence (OMES Human Resources Department Policy on Anti-Violence issued 9/1/12 and EGID Policy Directive 514)** EGID prohibits violent acts or any conduct that may lead to violence, by any agency employee, guest, member or third party contractor.

Additionally:

- a. Covered Persons must not cause another Covered Person, entity or general public to violate these standards, whether through inducement, suggestion or coercion.
- b. Conflict of Interest. Covered Persons must certify that there is no conflict of interest. Certification is required at time of hire or contract, and annually thereafter.

- c. **Marketing and Member Service Activities.** It is EGID's policy to offer only honest, straightforward, fully informative and non-deceptive information when conducting marketing activities. It is in the best interests of members, EGID and payers alike, for members, physicians, pharmacists, dentists, insurance coordinators, and other referral sources to understand fully the benefits offered by EGID, and the potential financial consequences if EGID's benefits are selected. Therefore, Covered Persons shall not distort the truth, make false claims, engage in fraudulent comparative analysis or attack or disparage another health, dental or pharmacy plan. EGID monitors marketing activities that involve the distribution of promotional materials to members or third parties that may have monetary value to evaluate compliance with the relevant policies.
- d. **Contract Negotiation.** EGID has an affirmative duty to disclose current, accurate and complete cost and pricing data where such data is required under appropriate federal or state law or regulation. Covered Persons involved in the pricing of contract proposals or in the negotiation of a contract must ensure the accuracy, completeness and currency of all data generated and given to supervisors and other employees. Furthermore, all representations made by EGID employees to EGID's members and contractors, both government and commercial, must be accurate, complete and current. The submission to a federal or state government customer of a representation, quotation, statement or certification that is false, incomplete or misleading can result in civil and/or criminal liability for EGID, the involved employee and any supervisors who condone and/or permit such an improper practice.
- e. **Financial Reporting and Internal Control.** False or misleading entries may not be made in the financial books or employment records of EGID for any reason. No Covered Person shall engage in any actions that result in or create false or misleading entries in EGID's books and records. All financial reports, accounting records, expense accounts, other documents must accurately and clearly represent the relevant facts or the true nature of a transaction.
- f. **Maintenance of Records and Files.** All Covered Persons must follow EGID's policy regarding the retention, disposal or destruction of any EGID records or files. Laws and regulations require retention of certain EGID records for various periods of time, particularly in the Part D, tax, financial, personnel, health and safety environment, HIPAA, and contract areas. Records should always be retained or destroyed according to EGID's record retention policies and those policies dictated by the MMA. Those policies should always be consistently adhered to. In accordance with those policies, in the event of litigation or governmental investigation, please consult EGID's legal counsel.
- g. **Responsibility for Data Submitted to CMS by subcontractors.** Compliance with the Compliance Program standards and all applicable laws and regulations is a condition of employment or association with EGID. EGID will pursue appropriate disciplinary action

to enforce compliance. The Compliance Officer will review the Department of Health & Human Services Office of Inspector General (OIG) and General Services Administration (GSA) exclusion lists on a monthly basis to ensure that Covered Persons are not included on such lists. Any Covered Persons found on these lists shall be immediately removed from any work on all federal health care programs.

**Civil and Criminal False Claims (42 U.S.C. §§ 1320a-7a & 1320a-7b)** Covered Persons shall not knowingly and/or willfully make or cause to be made any false statement or representation of material fact in any claim or application for benefits under any federal health care program or health care benefit program. Covered Persons shall not knowingly present a claim to any federal health care program or health care benefit program for an item or service the person knows or should have known, was not provided, was fraudulent, or was not medically necessary. No claim for an item or service shall be submitted that is based on a code that the person knows or should know will result in greater payment than the code the person knows or should know is applicable to the item or service actually provided. Covered Persons shall not give or cause to be given any information with respect to coverage of inpatient services which that person knows is false and could influence the decision regarding when to discharge an individual from any health care facility. Covered Persons shall not offer to transfer, or transfer, any remuneration to a beneficiary under a federal health care program, that the person knows or should know is likely to influence the beneficiary to order and/or receive any item or service from a particular provider, practitioner, or supplier, for which payment may be made, in whole or in part, under a federal health care program. Remuneration includes the waiver of coinsurance and deductible amounts except as otherwise provided, and transfers of items or services for free or for less than fair market value. Examples of prohibited conduct include, but are not limited to: misrepresenting services which were rendered; falsely certifying that services were medically necessary; "up-coding"; billing for services not actually rendered; making false statements to governmental agencies about EGID's compliance with any state or federal rules; and, failing to refund overpayments made by a federal health care program.

**Anti-Kickback Act (42 U.S.C. §1320a-7b(b)) and Anti-Kickback Act of 1974 (74 O. S. 1991, § 3401, et seq.)** Covered Persons shall not knowingly and/or willfully solicit, offer to pay, pay, or receive, any remuneration, either directly or indirectly, overtly or covertly, in cash or in kind, in return for:

- a. Referring an individual to a person for the furnishing, or arranging for the furnishing, of any item or service for which payment may be made, in whole or in part, under any federal health care program;
- b. Purchasing, leasing, ordering, or arranging for, or recommending the purchasing, leasing, or ordering of any goods, facility, service or item for which payment may be made in whole or in part, under any federal health care program; or

- c. Remuneration may include kickback payments, bribes, or rebates.

**Exclusion from Federal Health Care Programs (42 USC 1320a-7)** Individuals or entities convicted for a program related crime, a criminal offense relating to patient abuse or neglect, a felony offense related to health care fraud, or a felony offense related to controlled substances must be excluded from Medicare and Medicaid for a minimum of 5 years.

**Ethics in Patient Referrals Act of 1989 (42 U.S.C. §1395nn)** Covered Persons who have an ownership and/or compensation relationship in non-excluded entities shall not refer a patient in need of designated health services for which payment may be made under Medicare or Medicaid to such entities with which they have a financial relationship.

**Health Care Fraud (18 U.S.C. §1347)** Covered Persons shall not knowingly and willfully execute or attempt to execute, a scheme or artifice to: defraud any health care benefit program; or obtain, by means of false or fraudulent pretense, representation, or promise any of the money or property owned by or under the custody or control of any health care benefit program, in connection with the delivery of, or payment for, health care benefits, items, or services.

**Criminal False Statements Related to Health Care Matters (18 U.S.C. §1035)** Covered Persons shall not knowingly and willfully make or use any false, fictitious, or fraudulent statements, representations, writings or documents, regarding a material fact in connection with the delivery of, or payment for, health care benefits, items or services. Covered Persons shall not knowingly and willfully falsify, conceal or cover up a material fact by any trick, scheme or device.

**Federal Civil False Claims Act (31 U.S.C. §§3729-3733 as amended).** Covered Persons shall not:

- a. Knowingly file a false or fraudulent claim for payments to a governmental agency, or health care benefit program;
- b. Knowingly use a false record or statement to obtain payment on a false or fraudulent claim from a governmental agency or health care benefit program;
- c. Knowingly conceal or improperly avoid or decrease an obligation to pay or transmit money or property to a governmental agency or health care benefit program; or
- d. Conspire to defraud a governmental agency or health care benefit program by attempting to have a false or fraudulent claim paid.

Examples of false or fraudulent claims include, but are not limited to, double billing, upcoding, unbundling, submitting or processing claims for items or services not provided, submitting or processing claims for items or services not medically necessary, and billing for non-covered services.

**Criminal False Claims Act (18 U.S.C. § 286, §287)** Covered Persons shall not knowingly make any false, fraudulent or fictitious claim against a governmental agency or health care benefit program. Conspiring to defraud a governmental agency or health care benefit program is prohibited.

**Criminal Wire and Mail Fraud (18 U.S.C. §1341, §1343)** Covered Persons shall not devise and/or implement a scheme to defraud a governmental agency or health care benefit program, which uses the U.S. Postal Service, private postal carriers or telephone lines to perpetrate the fraud.

**Criminal False Statement Act (18 U.S.C. §1001)** Covered Persons shall not knowingly and willfully falsify or make any fraudulent, false or fictitious statement against a governmental agency or health care benefit program.

**Theft or Embezzlement in Connection with Health Care (18 U.S.C. §669)** Covered Persons shall not embezzle, steal or otherwise, without authority, convert to the benefit of another person, or intentionally misapply money, funds, securities, premiums, credits, property, or other assets of a health care benefit program.

**Obstruction of Criminal Investigations of Health Care Offenses (18 U.S.C. §1518)** Covered Persons shall not willfully prevent, obstruct, mislead, delay, or attempt to prevent, obstruct, mislead or delay the communication of information or records relating to a violation of a federal health care offense to a criminal investigator.

**Criminal Conspiracy (18 U.S.C. §371)** Covered Persons shall not conspire to defraud any governmental agency or health care benefit program in any manner or for any purpose.

**RICO and Money Laundering Acts (18 U.S.C. §1956, §1961 et. seq.)** Covered Persons shall not use any income obtained from mail or wire fraud to operate any enterprise. In addition, Covered Persons shall not use the proceeds of wire or mail fraud in financial transactions, which promote the underlying fraud.

### **Policy History**

Effective Date of Policy: March 1, 2013	Date Policy Last Revised: January 17, 2013
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